

Message Text

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ACTION IO-13

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SS-15 USIA-12 GAC-01 ACDA-19 NASA-04 SCI-06 AF-10

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AMEMBASSY PARIS

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USMISSION NATO

C O N F I D E N T I A L SECTION 1 OF 2 USUN 1501

E. O. 11652: GDS

TAGS: TSPA, PFOR, UN, UR, CA, FR

SUBJ: OUTER SPACE LEGAL: MOON AND REGISTRATION TREATIES

UNFINISHED AS SUBCOMMITTEE ENDS SESSION

1. SUMMARY: OUTER SPACE LEGAL SUBCOMMITTEE SESSION ENDED WITH BOTH MOON TREATY AND REGISTRATION CONVENTION UNFINISHED (BUT REGISTRATION VERY NEAR COMPLETION) AND WITH UNRESOLVED ARGUMENT OVER FUTURE AGENDA PRIORITIES. USSR PRESSED HARD FOR PRIORITY FOR CONSIDERATION OF DIRECT BROADCASTING PRINCIPLES, CLEARLY MEANING ITS DRAFT CONVENTION ON SUBJECT. NUMBER OF DELS AND SUBCOMMITTEE REPORT EXPRESSED HOPE FOR COMPLETION OF BOTH MOON AND REGISTRATION TREATIES AT JUNE 1973 OUTER SPACE COMMITTEE SESSION , END SUMMARY.

2. DETAILS. LEGAL SUBCOMMITTEE WOUND UP ITS 1973 SESSION APRIL 20 WITH MEMBERS DISPLAYING VARYING DEGREES OF DISAPPOINTMENT OVER FAILURE TO FINISH EITHER MOON TREATY OR REGISTRATION CONVENTION, BUT WITH CONSIDERABLE ENCOURAGEMENT ON PART OF MANY OVER SUBSTANTIAL PROGRESS ACHIEVED TOWARD MUTUALLY ACCEPTABLE REGISTRATION TEXT. THIS ENCOURAGEMENT SEEMS CONFIDENTIAL

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JUSTIFIED IN VIEW OF EXTENT OF AGREEMENT ON KEY SUBSTANTIVE PROVISIONS.

3. FROM US STANDPOINT, NEGOTIATIONS ON REGISTRATION REPRESENTED SIGNIFICANT DEGREE OF SUCCESS. INFORMAL CONSULTATIONS WITH CANADIANS, FRENCH AND SOVS PRODUCED REPORTING PROVISIONS SUBSTANTIALLY SAME AS IN US DRAFT TEXT AND NO MORE ONEROUS IN CONTENT THAN OUR PRESENT VOLUNTARY SUBMISSIONS TO UN. DIFFICULTIES POSED BY OBSESSIVE FRENCH INSISTENCE ON NATIONAL REGISTERS AND INTERPRETATION OF THEIR SIGNIFICANCE (WHICH CONTRADICTED VIEWS OF SOME OTHERS, NOTABLY JAPAN) WERE SURMOUNTED BY US- PROPOSED COMPROMISE WHICH WAS WIDELY APPRECIATED, NOT LEAST BY FRENCH. ARTICLE ON IDENTIFICATION ASSISTANCE, WHILE SOMEWHAT CUT BACK BY FRENCH REVISION FROM MORE EXPANSIVE US APPROACH, EMERGED AS SATISFACTORY FORMULATION REFLECTING ITS ORIGIN IN US OFFER TO PROVIDE SUCH ASSISTANCE UPON ANY REASONABLE REQUEST AND CONTAINING BALANCE OF OBLIGATIONS AS BETWEEN REQUESTING STATE AND STATE HAVING SOPHISTICATED SPACE TRACKING CAPABILITIES.

4. REMAINING UNRESOLVED REGISTRATION ISSUES CONCERN REQUIREMENT FOR MARKING OF SPACE OBJECTS AND TREATY REVIEW PROVISION. FORMER EMBODIES MORE DIFFICULTIES. LARGE NUMBER OF DELS REMAIN INSISTENT ON NEED FOR MARKING PROVISION, NOTWITHSTANDING US REITERATION THAT MARKING NOT TECHNICALLY FEASIBLE AND WOULD NOT FURTHER BASIC AIM OF CONVENTION, I. E. TO FACILITATE IDENTIFICATION OF SPACE OBJECT RETURNING TO EARTH AND CAUSING DAMAGE. AT END OF SESSION CANADA TABLED MARKING PROVISION WHICH WOULD ENTAIL ASSIGNMENT OF REGISTRATION NUMBER OF OTHER DESIGNATION IN ADVANCE OF LAUNCHING AND MARKING TO VEHICLE " IN THE MOST APPROPRIATE AND FEASIBLE WAY." SOVS HINTED THEY MIGHT IN DUE COURSE ACCEPT GENERALIZED " AS MAY BE FEASIBLE" MARKING PROVISION.

5. IT IS DIFFICULT TO ESTIMATE HOW STRONGLY FRANCE AND OTHERS WOULD MAINTAIN ABOVE POSITION OR, IF FRENCH POSITION WEAKENS, HOW STRONGLY OTHER PRO- MARKING DELS LIKE AUSTRALIA WOULD TRY TO INSIST. CONTINUED INSISTENCE ON SOME MARKING PROVISION IN TREATY TEXT OBVIOUSLY WOULD NULLIFY CHANCES OF AGREEMENT AT JUNE OUTER SPACE COMMITTEE SESSION, ASSUMING US INSTRUCTIONS REMAIN UNCHANGED.

6. REVIEW PROVISION ENJOYED EVEN MORE SIDESPREAD SUPPORT IN LSC THAN MARKING. NUMBER OF DELS EXPRESSLY DISASSOCIATED TREATY REVIEW FROM MARKING QUESTION, PUTTING ISSUE IN GENERAL TERMS OF CONFIDENTIAL

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RAPIDLY CHANGING TECHNOLOGICAL AND OPERATIONAL SITUATION WITH CORRESPONDING NEED TO APPRAISE EFFECTIVENESS OF CONVENTION SOME YEARS AFTER ITS ENTRY INTO FORCE.

7. ASSUMING RESOLUTION OF ABOVE ISSUES, NOTHING ON THE MERITS SHOULD STAND IN WAY OF PRODUCING FINAL SATISFACTORY REGISTRATION TEXT IN JUNE. HOWEVER, DURING LSC SOV REPEATEDLY ASSERTED LINKAGE BETWEEN AGREEMENT ON REGISTRATION AND ON MOON TREATY, AND THEY MAY CONTINUE TO SEEK TO MAKE FORMER POLITICAL HOSTAGE FOR LATTER IN PARENT OSC.

8. RESOLUTION OF OUTSTANDING SUBSTANTIVE MOON TREATY ISSUES
 COULD PROVE MORE DIFFICULT THAN IN CASE OF REGISTRATION
 CONVENTION. REMAINING MOON TREATY ISSUES CONCERN NATURAL
 RESOURCES, TIMING OF NOTIFICATION OF MISSIONS, AND TREATY SCOPE
 AND ITS FORMULATION. RESOURCES MAY PROVE MOST INTRACTABLE.
 LARGE NUMBER OF DELS INCLUDING USSR (GRUDGINGLY) ESPOUSED ITALIAN
 FORMULATION OF NATURAL RESOURCES AS ACCEPTABLE COMPROMISE; WE
 WERE ONLY DEL WHO TURNED IT DOWN. AT THIS JUNCTURE, ONLY UK AND
 JAPAN WOULD SEEM TO BE WILLING TO GIVE STRONG SUPPORT TO
 US ARIANT OF ARTICLE WHICH LIMITS NON- APPROPRIATION PROVISION
 CONCERNING NATURAL RESOURCES TO THOSE " IN PLACE" AND EXPRESSLY
 STATES THAT THE PROVISION FOR A FUTURE CONFERENCE TO DRAW UP AN
 INT' L REGIME OVER EXPLOITATION, THUS EXCLUDING
 ANY IMPLICATION OF A POSSIBLE MORATORIUM. INDIA, BRAZIL AND
 EGYPT (INDIA MOST CATEGORICALLY) CALLED US PROPOSAL UNACCEPTABLE
 ON BASIS THEIR EXISTING INSTRUCTIONS. IF THESE DELS PERSIST IN
 THEIR OBJECTIONS, HARD TO SEE HOW ISSUE CAN BE RESOLVED AT OSC.
 HOWEVER, USSR OBVIOUSLY STILL WANTS BADLY TO TRY TO FINISH MOON
 TREATY AT EARLIEST POSSIBLE OPPORTUNITY AND MAY LEAN ON INDIANS
 AT FAIRLY HIGH LEVEL BEFORE OSC CONCENES. WE SUGGESTED SOVIETS
 MIGHT WISH TO MAKE AN APPROACH TO DELHI.

8. WERE RESOURCES ISSUE TO BE RESOLVED, WE THINK IT LIKELY THAT
 NOTIFICATION AND SCOPE/ FORMULATION COULD BE WRAPPED UP EXPEDITI-
 OUSLY. IN BRIEF BILATERAL WHICH THEY SOUGHT FOLLOWING END OF LSC
 SESSION, SOVS REITERATED THAT ADVANCE NOTIFICATION IN ANY FORM,
 INCLUDING PROSPECTIVE ENVIRONMENTAL IMPACT STATEMENT, WAS
 UNACCEPTABLE. ON SCOPE/ FORMULATION THEY SAID WE COULD HAVE
 " ANYTHING WE WANTED" IN TREATY TITLE AND PREAMBLE, BUT REPEATED
 THAT

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SYSTEM (EXCEPT EARTH) AND THEREAFTER REFER ONLY TO " MOON", PER UK COMPROMISE PROPOSAL. HOWEVER, THERE MAY BE SOME BASIS FOR THE HOPE, ALBEIT SLENDER, THAT GIVEN RESOLUTION OF RESOURCES PROBLEM, WHICH WE CONTINUED TO TELL THEM MUST COME FIRST, SOVS MIGHT ACCEPT TRADE- OFF OF MENTION OF " OTHER CELESTIAL BODIES" THROUGHOUT OPERATIVE SECTION, PER US POSITION IN EXCHANGE FOR FORMULATION ON MISSION NOTIFICATION WHICH DOES NOT REQUIRE REPORTING IN ADVANCE.

10. LSC REPORT RECOMMENDS THAT OSC SHOULD MAKE " BEST EFFORTS" TO COMPLETE BOTH MOON AND REGISTRATION TREATIES AT JUNE 1973 SESSION SO AGREED DRAFTS COULD BE SUBMITTED TO UNGA FOR ADOPTION THIS FALL. THIS RECOMMENDATION WAS NON- CONTROVERSIAL. HOWEVER, STRENUOUS ARGUMENT ERUPTED OVER SOVIET ATTEMPT TO RAILROAD RECOMMENDATION INTO LSC REPORT THAT TOP AGENDA PRIORITY BE GIVEN DIRECT BROADCAST SATELLITES (EBS), SPECIFICALLY TO CONSIDERATION OF USSR' S DRAFT TREATY ON SUBJECT. SOVS INSISTED ON ANNEXING CONVENTION TEXT TO REPORT ALONG WITH THEIR DRAFT " PRINCIPLES" ON EARTH RESOURCE SURVEY (ERS) SATELLITES (INTRODUCED AT FEB 1973 SESSION OF UN WORKING GROUP ON REMOTE SENSING) AND TRIED (UNSUCCESSFULLY) TO HAVE SC ASCRIBE HIGHEST PRIORITY

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TO ERS AS WELL. AS WE POINTED OUT, THIS WOULD HAVE MEANT EQUAL PRIORITY FOR FOUR AGENDA ITEMS, RENDERING POSSIBILITY OF USEFUL ACCOMPLISHMENT ON ANY ONE OF THEM VERY LOW.

11. AS COULD HAVE BEEN EXPECTED, CONSIDERABLE SUPPORT DEVELOPED FOR HIGH DBS PRIORITY DESPITE UNCERTAINTY AT THIS STAGE WHETHER MOON TREATY AND REGISTRATION WOULD BE ON LSC AGENDA NEXT YEAR. PRLONGED DEBATE ENSURED IN WHICH US DEL STRENUOUSLY OBJECTED TO ACCEPTANCE OF FIRST PRIORITY FOR DBS AT THIS JUNCTURE; EVEN BRAZIL, WHICH IS IN FRONT RANK OF DBS ACTIVISTS, POINTED OUT THAT PARENT COMMITTEE IN JUNE WOULD BE IN MUCH BETTER POSITION TO ASSIGN PRIORITIES IN LIGHT OF RESULTS OF UN DBS WORKING GROUP MEETING AS WELL AS ITS OWN PROCEEDINGS. (BRAZIL ALSO TWEAKED SOVS WITH REMINDER THAT, WHEN OSC LAST DISCUSSED LEGAL SUBCOMMITTEE PRIORITIES IN FALL 1971, USSR HAD REJECTED BRAZILIAN CALL FOR TOP PRIORITY FOR DBS WITH ASSERTION THAT MOON TREATY WAS MORE URGENT). SOVS OBSTINATELY MAINTAINED THAT LSC REPORT MUST CONTAIN AT LEAST SOME MENTION OF SUPPORT FOR DBS PRIORITY, BUT FINALLY BACKTRACKED BY ACCEPTING COMPROMISE WORKED OUT BY CHAIRMAN (POLAND) ON BASIS OF NEUTRAL UK FORMULATION. PARA IN REPORT AS ACCEPTED SIMPLY NOTES THAT LSC, AFTER DISCSSING QUESTION OF ALTERING ITS AGENDA PRIORITIES, LEAVES QUESTION UP TO OSC IN LIGHT OF DEVELOPMENTS BETWEEN NOW AND CONCLUSION OF PARENT COMMITTEE' S NEXT SESSION. IN APRIL 20 BILATERAL WITH SOVS, US REP FORESAW MORE DIFFICULTY OVER PRIORITIES ISSUES IN OSC, RESTATING STRONGEST US SUBSTANTIVE OPPOSITION TO SOVIET DRAFT DBS CONVENTION AND NOTING THAT DBS " PRINCIPLES", WHEN TIMELY, NEED NOT TAKE

TREATY FORM.

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